

BEFORE THE DEPARTMENT OF CORPORATIONS  
OF THE STATE OF CALIFORNIA

CALIFORNIA CORPORATIONS  
COMMISSIONER,

Complainant,

vs.

NORTHWEST ESCROW SERVICES CORP.,

Respondent.

) OAH Case No. 2008040765

) SETTLEMENT AGREEMENT

) HEARING DATE: June 23, 2008

) TIME: 9:00 a.m.

) LOCATION: OAH, San Diego

This Settlement Agreement ("Agreement") is entered into between Northwest Escrow Services Corp. ("Northwest Escrow") and the California Corporations Commissioner ("Commissioner") with respect to the following facts:

**RECITALS**

A. Northwest Escrow is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in the State of California.

B. Northwest Escrow is an escrow agent licensed by the Commissioner pursuant to the Escrow Law of the State of California, Financial Code section 17000 *et seq.* Northwest Escrow's license number is 963-2314. Its principal place of business is located at 2901 W. Coast Highway, Suite 200, Newport Beach, CA 92663.

C. Wayne B. Holstad ("Holstad") is Northwest Escrow's president. Holstad is authorized to enter into this Agreement on behalf of Northwest Escrow.

1 D. On or about March 24, 2008, the Commissioner issued his Notice of Intention to  
2 Issue Order Suspending Escrow Agent's License and Accusation to Northwest Escrow (collectively,  
3 "Notice of Intention") pursuant to section 17608 of the Financial Code. The Commissioner's Notice  
4 of Intention sought to suspend Northwest Escrow's license, pursuant to Financial Code section  
5 17602.5, for a period of one month or until Northwest Escrow filed its audit report for the fiscal year  
6 ending on June 30, 2007, whichever was greater. The reason for the suspension was Northwest  
7 Escrow's failure to timely file its annual audit report for that fiscal year pursuant to Financial Code  
8 sections 17406.

9 E. On or about March 24, 2008, the Commissioner issued an Order Imposing Penalties  
10 Pursuant to California Financial Code Section 17408 ("Order"). The Order imposed penalties in the  
11 amount of \$16,100.00, plus an additional \$100.00 a day for each day after March 24, 2008 that the  
12 annual audit report was not filed. The reason for the Order was Northwest Escrow's failure to timely  
13 file its annual audit report for the fiscal year ending on June 30, 2007 as required by Financial Code  
14 section 17406.

15 F. The Notice of Intention and Order were served on Northwest Escrow via certified  
16 mail, return receipt requested, at its address of record on file with the Department on or about March  
17 26, 2008. Northwest Escrow filed its request for hearing on the Notice of Intention on or about April  
18 11, 2008.

19 G. On April 11, 2008, Northwest Escrow filed the annual audit report for the fiscal year  
20 ending June 30, 2007. Northwest Escrow therefore filed the annual audit report 178 days after the  
21 due date of October 15, 2007, as provided by Financial Code section 17406.

22 H. The Office of Administrative Hearings ("OAH") set this matter to commence hearing  
23 on June 23, 2008, at 9:00 a.m.

24 I. It is the intention and the desire of the parties to resolve this matter without the  
25 necessity of a hearing and/or other litigation.

26 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
27 forth herein, the parties agree as follows:  
28

1 **TERMS AND CONDITIONS**

2 1. This Agreement is entered into for the purposes of judicial economy and expediency,  
3 and to avoid the time and expense of a hearing and possible further court proceedings.

4 2. Northwest Escrow hereby admits the allegations contained in the Notice of Intention  
5 and Order. The admissions of Northwest Escrow are solely for the limited purposes of these  
6 proceedings and any future proceeding(s) that may be initiated by or brought before the  
7 Commissioner against Northwest Escrow. It is the intent and understanding of the parties that this  
8 Agreement, and the admissions of Northwest Escrow contained herein, shall not be binding or  
9 admissible against Northwest Escrow in any action(s) brought against Northwest Escrow by third  
10 parties.

11 3. Northwest Escrow agrees to the following conditions:

- 12 a. That the Order is hereby deemed a final order. Northwest Escrow acknowledges  
13 that the penalties accruing pursuant to the Order for the untimely filing of its 2007  
14 annual audit report total \$17,800.00. Northwest Escrow agrees to pay the  
15 Commissioner the sum of \$17,800.00 in penalties, which shall be paid in full  
16 within ten (10) days of the date of execution of this Agreement. Northwest  
17 Escrow's penalty payment must be forward to counsel for the Commissioner,  
18 Joyce Tsai, at her address of record, within the time provided.
- 19 b. The immediate issuance by the Commissioner of an order suspending Northwest  
20 Escrow's escrow agent's license for a period of fourteen (14) calendar days  
21 commencing on May 19, 2008 and ending on June 1, 2008, during which period  
22 Northwest Escrow shall not accept any new escrow business, but may continue to  
23 service prior and open escrows, in accordance with Financial Code section 17609.  
24 In connection with the suspension, Northwest Escrow shall file with the  
25 Department of Corporations ("Department") at close of business on May 18,  
26 2008, a list of all open escrows with escrow numbers and escrow party names  
27 along with a copy of the signed escrow instructions and signed deposit receipt(s)  
28 for the last opened escrow, signed by the president of Northwest Escrow under

1 penalty of perjury. For purposes of this Agreement, open escrow shall mean an  
2 escrow wherein the parties to such escrow have already entered into a binding  
3 agreement and monies and/or escrow instructions have been submitted to  
4 Northwest Escrow regarding the transaction. Additionally, Northwest Escrow  
5 will be required to immediately engage its certified public accountant ("CPA")  
6 firm to review the records of Northwest Escrow after the suspension has been  
7 completed and report its findings regarding compliance with the suspension  
8 ("CPA Report") to the Department within 30 days of completion of the  
9 suspension period. Northwest Escrow's CPA shall file its CPA Report with the  
10 Department directly. The Commissioner reserves the right to audit Northwest  
11 Escrow for compliance with the suspension notwithstanding the finds of the CPA  
12 review. A copy of the suspension order is attached and incorporated hereto as  
13 Exhibit A.

14 4. The parties hereby acknowledge and agree that this Agreement is intended to  
15 constitute a final and complete resolution of the matters set forth herein, including the allegations set  
16 forth in the Notice of Intention and Order, and constitutes the entire agreement between the parties  
17 with respect thereto. This Agreement supersedes any and all prior or contemporaneous agreements  
18 between the parties hereto.

19 5. Notwithstanding any other provision contained herein, nothing in this Agreement  
20 shall operate to limit the Commissioner's ability to investigate and prosecute violations of the  
21 Escrow Law not addressed herein, or to assist any other agency (county, state, or federal) with any  
22 prosecution, administrative, civil or criminal, brought by such agency against Northwest Escrow.

23 6. Northwest Escrow acknowledges its right to an administrative hearing under  
24 California Financial Code sections 17408 and 17608 in connection with the penalty and/or any  
25 suspension, and hereby waives its right to a hearing, and to any reconsideration, appeal, or other  
26 rights which may be afforded pursuant to the Escrow Law, the California Administrative Procedure  
27 Act, the California Code of Civil Procedure, or any other provision of law in connection with this  
28 matter. Within five (5) business days after the execution of this Agreement, the Commissioner shall

1 request that OAH take the hearing scheduled for June 23, 2008 off calendar.

2 7. Each party hereto represents and warrants that it has received independent advice  
3 from its attorney(s) and/or other representatives prior to entering into this Agreement, and in  
4 executing this Agreement relied solely on the statements set forth herein and the advice of its own  
5 counsel and/or representative.

6 8. In that the parties have had the opportunity to draft, review and edit the language of  
7 this Agreement, no presumption for or against any party arising out of drafting all or part of this  
8 Agreement will be applied in any action relating to or arising out of this Agreement. Accordingly,  
9 the parties hereby waive the benefit of California Civil Code section 1654 and any successor statute.

10 9. The waiver of any provision of this Agreement shall not operate to waive any other  
11 provision set forth herein, and any waiver, amendment and/or change to the terms of this Agreement  
12 must be in writing signed by the parties hereto.

13 10. Each signatory hereto represents and warrants that he/she possesses the necessary  
14 capacity and authority to execute this Agreement and bind the parties hereto.

15 11. This Agreement may be executed in one or more counterparts, each of which shall be  
16 an original but all of which, together, shall be deemed to constitute a single document. A fax  
17 signature shall be deemed the same as an original signature.

18  
19 Dated: 5/18/08

PRESTON DuFAUCHARD  
California Corporations Commissioner

21 By: \_\_\_\_\_  
22 Alan S. Weinger  
23 Lead Corporations Counsel

24 Dated: \_\_\_\_\_

NORTHWEST ESCROW SERVICES CORP.

26 By: \_\_\_\_\_  
27 Wayne B. Holstad  
28 President

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PRESTON DuFAUCHARD  
California Corporations Commissioner

21  
22 By: \_\_\_\_\_  
23 Alan S. Weinger  
Lead Corporations Counsel

24  
25 Dated: 5/9/08

NORTHWEST ESCROW SERVICES CORP.

26  
27 By: \_\_\_\_\_  
28 Wayne B. Holstad  
President